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COLLECTIVE BARGAINING IN THE PUBLIC SERVICE--THE ROAD AHEAD.

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COLLECTIVE BARGAINING IS BEING USED INCREASINGLY TO RESOLVE PROBLEMS OF PUBLIC SERVICE EMPLOYMENT. THIS DEVELOPMENT, ESPECIALLY IN THE FIELD OF EDUCATION, IS MARKED AT BOTH STATE AND LOCAL LEVELS BY COMPETITION BETWEEN UNIONS AND ASSOCIATIONS FOR DOMINANCE IN THE BARGAINING PROCESS ON BEHALF OF TEACHERS. THE NATIONAL EDUCATION ASSOCIATION (NEA) IS APPROACHING THE POLICY ATTITUDE OF THE AMERICAN FEDERATION OF TEACHERS (AFT) SUPPORTING STRIKES WHEN ITS AFFILIATES HAVE FAILED TO GAIN A SETTLEMENT AFTER GOOD FAITH BARGAINING. DIFFERENCES BETWEEN PRIVATE AND PUBLIC SECTOR COLLECTIVE BARGAINING SHOULD BE CLARIFIED. SPECIAL ISSUES REQUIRING CONSIDERATION INCLUDE THE ROLE OF MANAGEMENT, THE DEVELOPMENT OF MANAGEMENT EXPERTS WITHIN EMPLOYEE ORGANIZATIONS, THE DETERMINATION OF THE PURPOSES FOR WHICH LEADERS OF EMPLOYEE ORGANIZATIONS WIELD THEIR POWER, AND THE FORMULATION OF ETHICAL POLITICAL PRACTICES FOR ATTAINING COLLECTIVE BARGAINING GOALS. RECOGNIZING THE RAPIDLY DEVELOPING NATURE OF COLLECTIVE BARGAINING FOR THEIR EMPLOYEES, PUBLIC OFFICIALS MUST LEARN THE RELEVANT LANGUAGE AND GAIN FROM THE EXPERIENCE OF THE PRIVATE SECTOR. SUGGESTIONS ARE GIVEN FOR THE FORMULATION OF AN OBJECTIVE ATTITUDE BY PUBLIC MANAGEMENT (INCLUDING EDUCATIONAL ADMINISTRATION) TOWARD ITS ROLE IN THE NEGOTIATION PROCESS, PUBLIC EMPLOYEE STRIKES, AND COMPULSORY ARBITRATION. THIS ADDRESS WAS PRESENTED AT THE PACIFIC NORTHWEST ASSEMBLY CO-SPONSORED BY THE UNIVERSITY OF OREGON AND THE AMERICAN ASSEMBLY OF COLUMBIA UNIVERSITY (UNIVERSITY OF OREGON, EUGENE, JULY 20-23, 1967) AND APPEARS IN "CHALLENGES TO COLLECTIVE BARGAINING," A REPORT OF THAT ASSEMBLY. (JK)

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Collective Bargaining in the Public Service: The Road Ahead

by Kenneth O. Warner, Executive Director, Public Personnel Association, Chicago, Illinois

I want to venture a few purely personal views about the road ahead for public service collective bargaining. I stress that these are my own ideas and not those of the Public Personnel Association, whose diversity of world wide membership makes an official position in this controversial field an impossibility. Also, my remarks are made within a particular frame of reference, which indeed may not be acceptable to all of you—that collective bargaining is now a fact of life in public administration in this country, and that it is here to stay, and will likely grow stronger.

The question of whether public employees can join or refrain from joining an organization of their own choice is now academic. It is almost universally accepted in principle. The question of whether organized employes can *bargain*, in contrast with simply *joining* an employee organization, is fast becoming academic.

We now have eight or nine comprehensive state bargaining laws passed in the last few years, and piecemeal bargaining is legal in a score of states. But there are literally thousands of agreements in all levels of government and educational systems in the United States, and a lot of this is "iceberg bargaining." It is not sanctioned; it is not guided by rules or laws; and the public is not aware it is going on. It is below the surface but it is a reality.

There is convincing evidence that bargaining is becoming a way of life in public administration. Note the vigorous organizing efforts of labor in the public sector; the number of official commissions studying and reviewing existing legislation; the number of labor relations laws before recent sessions of state legislatures; and the growing influence of employee organizations in government and education.

One rather definite impact is the increasing competition between unions and associations. Each vies for membership and for a top leadership role at all levels of government and in the field of education. Associations and unions are engaged in an all-out power struggle which tends to foster greater militancy. This militancy is probably somewhat greater among unions than associations, but the latter is also becoming more militant because they are in a competitive situation. Some teacher associations already behave like unions. A school superintendent commented recently that he can't tell the difference between the local branch of the American Federation of Teachers and the National Education Association when they get across the bargaining table.

Union-association competition will also likely bring these types of employee organizations closer together in their basic philosophies. Another logical outcome of this competition is amalgamation; they may be forced into a position where they must get together in order to compete in the field. The results of amalgamation are clear; notably they bring into being a stronger, larger group. Such organizations can assist local units and provide consultation and research guidance so essential to effective employee organizations.

On the road ahead, unions and associations may be forced to detour from the main arterial they now follow. This detour involves a searching analysis of organizational goals, methods and philosophy. How they engineer the detour will affect their daily operations and their continuing relations with management.

Organizational self-analysis may involve rethinking the purposes of unions and associations as they expand in the public setting. Do they exist primarily to improve conditions of work and play, primarily to give workers personal benefits, or do they exist in any large measure to improve the quality and efficiency of public services? These questions may be answered quite simply for the private sector, but not so simply in the public sector. In this connection, one international union officer said to me, "Let's level. I don't give a hoot about improving

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the efficiency of government. My job is to better the lot of my members. It's management's responsibility to improve the quality of public service. Any improvement that results from better pay and better conditions of work is quite coincidental."

I hasten to add that such a view is not necessarily bad or wrong. In fact, I pass no value judgment about it; but I do suggest that many independent associations have publicly declared themselves in favor of improved services as a major organizational goal. That may be one reason why independent associations have been referred to by some as "kept unions."

Another area of analysis for employee organizations is the role of supervisors. This is closely related to still another area–the role of professional workers. The question of who is management and who is employee becomes particularly acute in the field of education. It involves not only the philosophy and mode of operating employee organizations, but it also strikes at the very heart of management because presumed management prerogatives are threatened. For example, when teacher organizations want to participate in determining curriculum content, classroom size, appropriate texts and teacher assignments, the traditional role of educational policy boards goes out the window. If you extend this analogy into engineering, public health and nursing, then professional organizations thrust more deeply into the traditional sphere of management.

Another impact on employee organizations involves the development of a new breed of management and budget experts within unions and associations. The upsurge of bargaining will create within the ranks of employee organizations the need for more people knowledgeable in management techniques and management practices. Their competence must be as great or greater than that of those who sit on the other side of the bargaining table.

I think that in the public setting the process of developing management experts within employee organizations is more difficult than in the private sector, in part because they are going to have a broader influence in shaping the content of public and educational administration. They will have an impact on public policy of far greater significance than their colleagues in the world of business and industry.

Organized employee groups must accommodate themselves to working within the framework of public affairs. Some public management practices are not common to private sector experience. From a union viewpoint, there are peculiarities and inconveniences to be overcome in moving into the public arena. Among them are such matters as a formal budget and appropriations procedure; limitations on revenue sources and bonding authority; the notion that a public agency can not delegate its authority to administrative officials who share some of their responsibilities with outsiders, such as representatives of employee organizations; employment arrangements set up under law, ordinances and administrative orders in the form of personnel and merit systems. And perhaps public officials themselves stand as the largest single roadblock to smooth union traffic on the road ahead. So far as bargaining is concerned, they are often uninformed, unprepared and uncooperative.

Finally, employee organizations must determine how to exercise their expanded power. Realistically, they succeed in ratio to their effective exercise of political acumen and their ability to influence policy makers and administrators. Like it or not, it is a fact that public sector bargaining ultimately depends on the political clout of unions and associations. In terms of the long-range well being of employee organizations, the real problem they face is to determine the purposes for which they exercise their power and the methods they use in achieving their goals. From the standpoint of increasing the number of members, union goals must include benefits. Will this goal alienate any segment of the public, legislature or administrative officers? Or does the nature of public agencies and educational institutions justify unions in seeking somewhat broader social goals? For example, should they seek to improve the quality of public service and education, as well as gaining benefits for their members?

Unions must rely heavily on their best experts in negotiation to carry on certain steps in the bargaining process. But on the most important issues, I believe they must rely on the kinds of pressure that typify what we call the political process. In the long run, these political practices must be ethical, for what can be gained by politics can also be taken away by politics. Wise union leadership will not permit a backset to the forward thrust of employee organizations because of inept political action.

At least three elements characterize the road ahead for public officials. It is a new road, mostly under construction. Like the interstate highway system, some parts are laid and in use, but completion dates vary from state to state. The collective bargaining road on a broad national basis awaits legislative authorization in many parts of the country. The road is experimental; private experience, although helpful, will not serve as an exact model. Since the road traverses new terrain, its direction can be regarded as tentative; future events can be expected to change its course and even the structural material of which it is made. The road is not entirely management built; management expects to traverse it, but it must be constructed with the help of others–notably employee organizations.

For most public officials, bargaining represents a strange, new world. Relatively few public officials know the terminology of collective bargaining. This situation suggests two courses of action for the public official: he must learn the language of collective bargaining, and he must gain from the experience of the private sector. Otherwise, he may bargain away the best interests of the jurisdiction he represents.

The road ahead for the public administrator will be paved with frustration unless he understands what is happening to him. Probably the most acute frustration is the head-on collision with an entirely different management philosophy. Both educational and public managers give the impression that upon them alone falls full responsibility for the enterprise they manage. An important aspect of this deeply held management philosophy is that decisions about employment and conditions of work have traditionally been made on a unilateral basis. So when it is suggested that employees should share in shaping management policies, that they should be consulted, then the administrator is confronted with an opposing set of concepts that raises his blood pressure. He may have given lip service to the idea of participatory management, but when it becomes a real prospect, imposed by law, the management representative shows fright.

Management must recognize that unions would probably not exist if management were perfect. Since management is not perfect, then common sense says management should keep an open mind and be willing to experiment with new methods of conducting public business.

I cannot overstress the point that in most public service organizations the question of "who is management" for bargaining purposes is a major problem. It is answered variously in different jurisdictions. In some places it is a committee of the city council or a school board; in others, it is a mayor or manager. In larger organizations, a specialist called a labor relations director is, for all intents and purposes, the representative of management bargaining. The least that can be done is to analyze carefully the pros and cons of various ways of assigning responsibility for each major step in the bargaining process.

Management is also frustrated because many of its long-standing notions about basic principles of government and administration are threatened—a threat to the status quo. As an example, consider the legal theory of sovereignty. One school of management thought says you can't bargain and you can't sign agreements for a given period of time because the governing body would be giving away some of its authority to officials down the line and that such action would bind the hands of future legislatures. Some courts have upheld this view of sovereignty, and yet there are literally thousands of signed agreements, many in places that lack authority to bargain. Realistically, the concept of sovereignty is dead; it just doesn't exist in practice.

Public management is frustrated because it does not know what is likely to happen under bargaining. A few of the prospects include: (1) A change in the budgeting process; (2) Legal restrictions that control the integrity of appropriations and tax limitations will be strained. Municipalities will seek a greater share of state collected revenue; they will seek new sources of income and greater bonding authority. The contention that funds are insufficient to grant pay increases will no longer be persuasive, hence the need for greater financial independence and autonomy for local bodies. (3) Pressure will be exerted on management to abolish its notion that some matters are not negotiable. (4) Management will engage in a modified class war, meaning that conflict between employee organizations and management, so characteristic of the private sector, will carry over in some degree to the public sector. The nature of bargaining is conflict and compromise. The sooner public management recognizes this inevitability, the better. (5) Management must expect to reappraise the strike issue in the public service.

Strikes in the public services of the United States are commonly held to be illegal, either by prohibitive law or court decisions. While some public employee unions still oppose the strike in security jobs, the trend of union thinking is that the strike falls almost in the category of an undeniable civil right. Furthermore, punitive anti-strike legislation has failed to prevent strikes; in fact, I question whether public service strikes can be prevented through legislation. Police department epidemics of sick calls, sit-ins by teachers and welfare workers, and work stoppages in sanitary and public works departments are widespread. I believe the mere threat of a strike in the public service provides a more powerful deterrent than exists in the private sector.

One other ingredient to the strike problem is the extreme difficulty of determining what is an essential service. For all practical purposes, it is an impossibility. It has been said that "the only absolute guarantee against strikes is a police state." If this is correct, it then follows that the solution to labor-management impasses lies in two directions. One is to authorize public employee strikes under controlled circumstances. The second direction is toward compulsory arbitration. If public service strikes are to be legalized, as I believe they should be, it then follows that final settlement must be made by compulsory binding arbitration. This device may work better in the public than it has in the private sector. I must add that management and organized

employees will be better off if they join forces to perfect available devices short of the strike and compulsory arbitration, including mediation, conciliation, fact-finding and advisory arbitration.

In conclusion, as management and employee organizations press forward in the bargaining area, they have an unsurpassed opportunity to act intelligently in the public interest. The task on both sides is awesome and the stakes are high. Unless the parties on both sides of the bargaining table approach its objectively and well prepared, the result could be disastrous. That is the challenge of collective bargaining in the public service.

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Challenges to Collective Bargaining

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